THE BOMBAY MONEY-LENDERS ACT, 1946.

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BOMBAY ACT No. XXXI OF 1947.[1]

[THE BOMBAY MONEY-LENDERS ACT, 1946.]

[*31st May 1947.*]

Amended by Bom. 58 of 1948.

An Act to regulate the transactions of money-lending in the Province of Bombay.

WHEREAS it is expedient to make better provision for the regulation and control of transactions of money-lending in the Province of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Money-lenders Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

VII of 1913.

(*1*) " bank " means a banking company as defined in section 277F of the Indian Companies Act, 1913, whether incorporated in or outside British India;

(*2*) " business of money-lending " means the business of advancing loans whether or not in connection with or in addition to any other business;

(*3*) " capital " means a sum of money which a money-lender invests in the business of money-lending;

VII of 1913.

(*4*) " company " means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent, or by an Act of the Legislature of a British Possession;

Bom. VII of 1925. II of 1912.

(*5*) " co-operative society " means a society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, or the Co-operative Societies Act, 1912, or any Act of any other Provincial Legislature relating to co-operative societies;

(*6*) " interest " includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(*7*) " licence " means a licence granted under this Act;

(*8*) " licence fee " means the fee payable in respect of a licence;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 97; for Report of the Select Committee, *see, ibid.*, p. 239; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

(*9*) " loan " means an advance at interest by way of credit, whether of money or in kind, but does not include—

(*a*) a deposit of money or other property in a Government Post Office Bank or in any other bank or in a company or with a co-operative society ;

(*b*) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or any other enactment relating to public, religious or charitable object ; XXI of 1860.

(*c*) a loan advanced by Government or by any local authority authorised by Government ;

(*d*) a loan advanced by a co-operatve society ;

[1][(*d1*) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund ;

(*d2*) a loan to or by an insurance company as defined in the Insurance Act, 1938 ;] IV of 1938.

(*e*) a loan to, or by a scheduled bank ;

(*f*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note ; XXVI of 1881.

(*g*) except for the purposes of sections 23 and 25, a loan to a trader ;

(*10*) " money-lender " means—

(*i*) an individual, or

(*ii*) an undivided Hindu family, or

(*iii*) a bank, or

[2][(*iiia*) a company, or]

(*iv*) an unincorporated body of individuals,

who or which—

(*a*) carries on the business of money-lending in the Province ; or

(*b*) has his or its principal place of such business in the Province ;

(*11*) " prescribed " means prescribed by rules made under this Act ;

(*12*) " principal " means in relation to a loan the amount actually advanced to the debtor ;

[3][(*12A*) " Provident Fund " means a Provident Fund as defined in the Provident Funds Act, 1925, and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act ;] XIX of 1925.

(*13*) " Province " means the Province of Bombay ;

(*13A*) " recognised language " means in Greater Bombay Marathi or Gujarati and elsewhere the language of the Court ;

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[1] These sub-clauses were inserted by Bom. 58 of 1948, s. 2 (*i*) and (*iii*).
[2] This paragraph was inserted, *ibid.*, s. 2 (*ii*).
[3] This clause was inserted, *ibid.*, s. 2 (*iii*).

(*14*) " register " means a register of money-lenders maintained under section 4 ;

(*15*) " rules " means rules made under this Act ;

II of 1934. (*16*) " scheduled bank " means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 ;

(*17*) " suit to which this Act applies " means any suit or proceeding—

(*a*) for the recovery of a loan made after the date on which this Act comes into force ;

(*b*) for the enforcement of any security taken, or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date ; or

(*c*) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date ;

(*18*) " trader " means a person who in the regular course of business buys and sells goods or other property, whether moveable or immovable, and includes—

a wholesale or retail merchant,
a commission agent,
a broker,
a manufacturer,
a contractor,
a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause an " artisan " means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

Appointment of Registrar General, Registrars and Assistant Registrars.

3. The Provincial Government may, by notification in the Official Gazette, appoint such persons, whether public officers or not, as it thinks proper, to be a Registrar General, Registrars and Assistant Registrars of money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

Register of money-lenders.

4. Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders in such form as may be prescribed.

Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence

5. No money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

Application for licence

6. (*1*) Every money-lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area [1][within the limits of which, the place where he intends to carry on the business of money-lending or if he intends to carry on such business at more than one place in the area, the principal place of such business is situated.] Such application shall contain the following particulars, namely :—

(*a*) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business ;

(*b*) if the application is by or on behalf of—

(*i*) an individual, the name and address of such individual,

(*ii*) an undivided Hindu family, the names and addresses of the manager and the adult coparceners of such family,

(*iii*) [2][a bank or company], the names and addresses of the directors, manager or principal officer managing it,

(*iv*) an unincorporated body of individuals, the names and addresses of such individuals ;

(*c*) the area and the place or principal place of the business of money-lending in the Province ;

(*d*) the name of any other place in the Province where the business of money-lending is carried on or intended to be carried on ;

(*e*) whether the person signing the application has himself, or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the [2][Bank or company] or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the Province in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name ;

(*f*) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

[3][(*g*) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.]

(*2*) The application shall be in writing and shall be signed—

(*a*) (*i*) if the application is made by an individual, by the individual ;

(*ii*) if the application is made on behalf of an undivided Hindu family, by the manager [[4]* * *] of such family ;

(*iii*) if the application is made by a [5][bank, company] or unincorporated body, by the managing director or any other person having control of its principal place of business in British India or of its place of business in the area in which it intends to carry on the business ; or

(*b*) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family, or the [5][bank, company] or the unincorporated body, as the case may be.

(*3*) The application shall also contain such other particulars as may be prescribed.

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[1] This portion was substituted for "within the limits of which he intends to carry on the business of money-lending" by Bom. 58 of 1948, s. 3 (*i*).

[2] These words were substituted for the original, *ibid.*, s. 3 (*i*) (*b*) and (*c*).

[3] New clause (*g*) was inserted, *ibid.*, s. 3 (*i*) (*d*).

[4] The words "and the adult coparceners" were deleted, *ibid.*, s. 3 (*ii*) (*a*).

[5] These words were substituted for the word "bank" *ibid.*, s. 3 (*ii*) (*b*).

[1][(*4*) The application shall be accompanied by a licence fee at the following rates :—

(*a*) If the place at which the business of money-lending is to be carried on is not more than one.	Rs. 5.
(*b*) If the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar.	Rs. 5 for the licence for the principal place of business and Rs. 2 for the licence for each of the other places in the area :

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(*5*) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.]

Grant of licence and entry in register.

[2][7. (*1*)] On the receipt of an application under section 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, [3][* *] and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4.

[4][If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.]

[4][(*2*) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the Province, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.]

Refusal of issue of licence.

8. (*1*) The grant of a licence shall not be refused except on any of the following grounds :—

(*a*) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence ;

(*b*) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence ;

(*c*) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act ;

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[1] New sub-sections (*4*) and (*5*) were added by Bom. 58 of 1948, s. 3 (*iii*).

[2] Section 7 was renumbered as 7 (*1*), *ibid.*, s. 4 (*1*).

[3] The words " on payment in the prescribed manner of a licence fee of Rs. 5 " were deleted, *ibid.*, s. 4 (*1*).

[4] This portion and sub-section (*2*) were added, *ibid.*

(*d*) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(*i*) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(*ii*) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code. XLV of 1860.

(*2*) The Registrar shall, before refusing a licence under sub-section (*1*), record the evidence adduced before him and his reasons for such refusal.

(*3*) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (*1*) to the Registrar General, whose decision shall be final.

Registrar's power to cancel licences.

[1][8A. (*1*) The Registrar, may during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(*2*) Before cancelling a licence under sub-section (*1*) the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(*3*) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (*1*) to the Registrar General whose decision shall be final.]

Term of licence.

9. A licence shall be valid from the date on which it is granted to the 31st day of July following.

Stay of suits by money-lenders not holding licence.

10. (*1*) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit filed by a money-lender to which this Act applies unless the Court is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender held a valid licence.

(*2*) If during the trial of any such suit, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require him to produce within a period of three months a licence on payment to the Registrar of all the arrears of the licence fees payable by him under this Act for the period commencing from the date on which he started the business of money-lending or the expiry of six months from the date on which this Act comes into force, whichever is later, together with such penalty, not exceeding Rs. 500, as the Court may direct:

Provided that when the Court is satisfied that the failure of the money-lender to obtain a licence was due to any reasonable cause, the Court may direct that no penalty as aforesaid or part of such penalty shall be paid by the money-lender.

(*3*) The Court may, on sufficient cause being shown, from time to time extend the period during which the money-lender shall be required to produce a licence.

(*4*) If the money-lender fails to produce the licence required under sub-section (*2*) within the period specified therein or within such period as may be extended under sub-section (*3*), the Court shall dismiss the suit. If the money-lender produces such licence within the aforesaid period, the Court shall proceed to hear the suit.

(*5*) Nothing in this section shall affect—

(*a*) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force;

[1] New section 8A was inserted by Bom. 58 of 1948, s. 5.

Bom. XXI of 1881. Bom. VI of 1888. III of 1909. V of 1920. VII of 1913.

(*b*) the powers of a Court of Wards, or a manager of an estate taken under management under the Broach and Kaira Incumbered Estates Act, 1881, or the Gujarat Talukdars Act, 1888, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, or of a liquidator under the Indian Companies Act, 1913, to realise the property of a money-lender.

Entry in register and grant of licence to a money-lender directed to obtain licence under section 10.

11. Any money-lender who is required under sub-section (*2*) of section 10 to produce a licence shall make an application to the Registrar through the Assistant Registrar in the manner specified in section 6 and on receipt of such application the Registrar may, subject to the provisions of section 8, and after making such inquiry as he deems fit, grant the money-lender on payment of the arrears of licence fee, and the penalty, if any, directed by the Court to be paid, a licence in the form and subject to the conditions specified in section 7 and direct the Assistant Registrar to enter the name of the money-lender in the register.

Application for cancellation of licence.

12. (*1*) Any person may, during the currency of a licence, file an application, to the Registrar General for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 8 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding Rs. 100 as the Registrar General may deem fit.

(*2*) On the receipt of such application and deposit the Registrar General shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct he may direct the Registrar to cancel the licence of the money-lender and may also direct the return of the deposit made under-sub-section (*1*).

(*3*) If in the opinion of the Registrar General, an application made under sub-sub-section (*1*) is frivolous or vexatious, he may, out of the deposit made under sub-section (*1*), direct to be paid to the money-lender such amount as he deems fit as compensation.

Registrar General, Registrar and Assistant Registrar to have powers of Civil Court.

V of 1908.

13. For the purposes of section 7 the Registrar and Assistant Registrar, and for the purposes of section 12 the Registrar General, shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :—

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents and material objects ;

(*c*) issuing commissions for the examination of witnesses ; and

(*d*) proof of facts by affidavits.

Power of authorised officer to require production of record or document.

[1][**13A.** For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorised by the Provincial Government in this behalf may require any money-lender to produce any record or document in his possession which in his opinion is relevant for the purpose and thereupon such money-lender shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may after reasonable notice at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record.]

[1] New section 13 was inserted by Bom. 58 of 1948, s. 6.

Court's power to cancel or suspend a licence.

14. (*1*) (*i*) A Court passing an order of conviction against a money-lender for an offence under this Act, or

(*ii*) a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending—

(*a*) may order that all the licences held by such money-lender in the Province be cancelled or suspended for such time as it may think fit; and

(*b*) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a [1][bank, company] or an unincorporated body, such family, [1][bank, company] or body and also any person responsible for the management of the business of money-lending carried on by such family, [1][bank, company] or body, to be disqualified from holding any licence in the Province for such time as the Court may think fit.

(*2*) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (*a*) or (*b*) of sub-section (*1*), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the Registrars by whom the licences were granted for the purpose of entering such particulars in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(*3*) Any licence required by a Court for endorsement in accordance with sub-section (*2*) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(*4*) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

No compensation for suspension or cancellation of licence.

15. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

Persons debarred from doing business during period of suspension or cancellation of licence.

16. A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the Province.

[1] These words were substituted for the word "bank" by Bom. 58 of 1948, s. 7.

17. No person whose licence has been endorsed under section 14 or who has been disqualified from holding a licence shall apply for, or be eligible to hold a licence, without giving particulars of such endorsement or disqualification. Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.

18. (*1*) Every money-lender shall keep and maintain a cash book and a ledger in such form and in such manner as may be prescribed. Duty of money-lender to keep accounts, and furnish copies.

(*2*) Every money-lender shall—

(*a*) deliver or cause to be delivered—

(*i*) to the debtor within 30 days from the date on which a loan is made, a statement in any recognised language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged ;

(*ii*) to the Assistant Registrar, within the said period a copy of the said statement ;

(*b*) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(*3*) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for the payment.

(*4*) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.

19. (*1*) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show— Delivery of statement of accounts and copies thereof by money-lender.

(*i*) the amount of principal and the amount of interest, separately, due to the money-lender ;

(*ii*) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made ;

(*iii*) all payments credited first in the account of interest, and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account of principal ;

(*iv*) the amount of principal remaining unpaid and the interest thereon.

The statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed.

The money-lender shall on or before the aforesaid date deliver or cause to be delivered a copy of each such statement to the Assistant Registrar.

(*2*) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (*1*).

(*3*) A money-lender shall, on a demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

(*4*) For the purposes of this section "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

Fees for certain statements supplied to debtors and Assistant Registrars.

[1][**19A.** (*1*) A money-lender may recover from a debtor fees for the statements supplied to him under sub-section (*2*) of section 18 or sub-section (*1*) of section 19 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-sections.

(*2*) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.]

Debtor not bound to admit correctness of accounts.

20. A debtor to whom a statement of accounts has been furnished under section 19 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

Procedure of Court in suits regarding loans.

21. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(*a*) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 18 and 19;

(*b*) if the Court finds that the provisions of section 18 or section 19 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts in the prescribed form and manner, shall be held to have complied with the provisions of section 18 or section 19, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

Provisions of certain sections not to apply to loans made by bank, [2][company] or unincorporated body exempted by Government.

22. Nothing in sections 18 to 21 shall apply to loans advanced by any [3][bank, company] or unincorporated body which the Provincial Government may by notification in the *Official Gazette* exempt from the operation of those sections.

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[1] Section 19A was inserted by Bom. 58 of 1948, s. 8.

[2] This word was inserted, *ibid.*, s. 9.

[3] These words were substituted for the word "bank", *ibid.*

Power of Court to limit interest recoverable in certain cases.

23. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree.

Power of Court to direct payment of decretal amount by instalments.

V of 1908.

24. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit.

Limitation on rates of interest.

25. (*1*) The Provincial Government may from time to time by notification in the *Official Gazette* fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans :

Provided that the maximum rate of interest shall not exceed 6 per cent. per annum in the case of secured loans and 9 per cent. per annum in the case of unsecured loans.

(*2*) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding he maximum rates fixed by the Provincial Government under sub-section (*1*) shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

Prohibition of charge for expenses on loans by money-lenders.

IV of 1882.

26. No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof ; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.

Notice and information to be given on assignment of loan.

27. (*1*) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

(*a*) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act ;

(*b*) supply to the assignee all information necessary to enable him to comply with the provisions of this Act ; and

(*c*) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(*2*) Any person acting in contravention of the provisions of sub-section (*1*) shall be liable to indemnify any other person who is prejudiced by the contravention.

Application of Act as respects assignees.

28. (*1*) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him whether before or after the date on which this Act comes into force or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(*2*) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

Reopening of transactions.

29. Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise—

(*a*) reopen any transaction, or any account already taken between the parties;

(*b*) take an account between the parties;

(*c*) reduce the amount charged to the debtor in respect of any excessive interest;

(*d*) if on taking accounts it is found that the money-lender has received more than what is due to him pass a decree in favour of the debtor in respect of such amount:

Provided that in the exercise of these powers, the Court shall not—

(*i*) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom the claim at a date more than six years from the date of the suit;

(*ii*) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section "excessive interest" means interest at a rate which contravenes any of the provisions of section 25.

Inquiry for taking accounts and declaring the amount due.

30. (*1*) Any debtor may make an application at any time to the Court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

(*2*) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(*3*) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of sections 18 to 29.

Deposit in Court of money due to money-lender.

31. (*1*) At any time a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both.

(*2*) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(*3*) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue if any towards the principal.

(*4*) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue if any towards the principal.

Entry of wrong sum in bond, etc., to be an offence.

32. (*1*) No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to Rs. 1,000 or with imprisonment of either description which may extend to six months or with both.

Penalty for molestation.

33. (*1*) Whoever molests, or abets the molestation of, a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to Rs. 500 or with both.

Explanation.—For the purposes of this section a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

(*a*) obstructs or uses violence to or intimidates such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(*c*) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person.

shall be deemed to molest such other person :

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

V of 1898.

(*2*) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898, an offence under this section shall be cognizable.

General provision regarding penalties.

34. Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable—

(*a*) for the first offence with fine which may extend to Rs. 200,

(*b*) for the second offence with fine which may extend to Rs. 500, and

(*c*) for any subsequent offence with rigorous imprisonment which may extend to three months and with fine.

Offences by corporations, etc.

35. If the person contravening any of the provisions of this Act is an undivided Hindu family or a bank [1][or a company] or an unincorporated body, the person responsible for the management of the business of such family [2][bank, company] or body shall be deemed to be guilty of such contravention.

[1] These words were inserted by Bom. 58 of 1948, s. 10.

[2] These words were substituted for the word " bank ", *ibid.*

Arrest and imprisonment in execution of decree for money, against agricultural debtors, abolished.

36. Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed Rs. 15,000 shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

Explanation.—"To cultivate personally" has the meaning assigned to it in clause (11) of section 2 of the Bombay Tenancy Act, 1939.* Bom. XXIX of 1939.

Every officer to be public servant.

37. Every officer of the Crown acting under the provisions of this Act shall be deemed to be a public servant witnin the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Provisions of Bom. XXVIII of 1939 saved.

38. Nothing in this Act shall affect any of the provisions of the Bombay Agricultural Debtors Relief Act, 1939, †and no Court shall entertain or proceed under this Act with any suit or proceeding relating to any loan in respect of which debt adjustment proceedings can be taken under the said Act. Bom. XXVIII of 1939.

Rules.

39. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters :—

(*a*) the form of the register under section 4 ;

[1][(*b*) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6 ;]

(*c*) the form and conditions of the licence, the manner of payment of licence fee and the procedure for a summary inquiry under section 7 ;

(*d*) the form of cash book and ledger and the manner in which they should be maintained under sub-section (*1*), and the other particulars to be prescribed under sub-section (*4*), of section 18 ;

(*e*) the form of the statement of accounts to be furnished and the date before which it is to be furnished under sub-section (*1*), the fee to be paid under sub-section (*2*), and the sum of expenses to be paid under sub-section (*3*), of section 19 ;

[2][(*ee*) the rates at which and the manner in which fees may be recovered under section 19A ;]

(*f*) the form of application and the fee to be paid under sub-section (*1*) of section 30 ;

(*g*) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(*4*) The rules made under this section shall be laid before each Chamber of the Provincial Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both Chambers concur and such rule shall, after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly.

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[1] This clause was substituted for the original by Bom. 58 of 1948, s. 11 (*i*).
[2] This clause was inserted, *ibid.*, s. 11(*ii*).
*See now section 2 (6) of Bom. 67 of 1948.
†See now Bom. 28 of 1947.